United Nations Convention on the Law of the Sea SPLOS/176

Meeting of States Parties

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Appointment of Auditor for financial years 2009-2012

1. Pursuant to regulation 12.1 of the Financial Regulations of the International Tribunal for the Law of the Sea:

> The Meeting of States Parties shall appoint an Auditor, which may be an internationally recognized firm of auditors, an Auditor General or an official of a State Party with an equivalent title. The Auditor shall be appointed for a period of four years and its appointment may be renewed. The Tribunal may make proposals regarding the appointment of the Auditor.

2. In order to enable the Tribunal to make proposals regarding the appointment of an auditor, five internationally recognized firms of auditors with offices in Germany (BDO Deutsche Warentreuhand AG; Deloitte & Touche; KPMG; Ernst & Young; and PricewaterhouseCoopers) were contacted by the Registry. Four of the firms sent preliminary responses in November 2007. On that basis, in January 2008 the Registry sent a request for quotation (annex I) to those firms. The scope of audit (annex II) was also communicated to the firms. Since the Tribunal has no internal audit service, the request for quotation included a provision for an interim audit every two years, that is, in 2009 and 2011.

3. The four quotations received by the Registry are as follows:

Audit firm	*Total (including expenses, excluding VAT) 2009-2010*	*Total (including expenses, excluding VAT) 2011-2012*
BDO Deutsche Warentreuhand AG	€10 450	€10 450
Deloitte & Touche	€13 100	€13 800
Ernst & Young	Not submitted	
KPMG[a]	US$ 16 000	US$ 16 000
PricewaterhouseCoopers	€20 300	€21 300

[a] Estimated price does not include a provision for interim audits.

4. The Registry evaluated the above quotations, taking into account technical ability to perform the audit in accordance with generally accepted common auditing standards, the interest of the Tribunal and the best value for money.

5. On that basis, the Registry selected the following three quotations, which may be considered to meet the requirements of the Tribunal:

Audit firm	*Total (including expenses, excluding VAT) 2009-2010*	*Total (including expenses, excluding VAT) 2011-2012*
BDO Deutsche Warentreuhand AG	€10 450	€10 450
Deloitte & Touche	€13 100	€13 800
PricewaterhouseCoopers	€20 300	€21 300

6. The quotation from KPMG is not recommended since the price in the offer is only an estimate and does not include a provision for an interim audit.

7. An amount of €14,600 is contained in the draft budget proposals of the Tribunal for 2009-2010 for the 2009-2010 audit, on the basis of the average of the three quotations selected in paragraph 5 above (€7,300 envisaged for 2009 and €7,300 envisaged for 2010).

8. That the following Auditors were previously selected to conduct the audit of the financial statements of the Tribunal:

Financial periods	*Firm*	*Cost*
1996/1997	Arthur Andersen	US$ 13 000
1998	Arthur Andersen	US$ 13 000
1999	Arthur Andersen	US$ 13 000
2000	Arthur Andersen	US$ 13 000
2001	PricewaterhouseCoopers	US$ 13 100
2002	PricewaterhouseCoopers	US$ 13 400
2003	PricewaterhouseCoopers	€14 000
2004	Deloitte & Touche	€9 200
2005	BDO Deutsche Warentreuhand	€3 500
2006	BDO Deutsche Warentreuhand	€3 500
2007	BDO Deutsche Warentreuhand	€3 500
2008	BDO Deutsche Warentreuhand	€3 500

9. At its twenty-fifth session, the Tribunal examined the quotations and the evaluation done by the Registry and decided to transmit that information to the Meeting of States Parties for its consideration should the Meeting decide to appoint an internationally recognized firm of auditors as Auditor for the 2009-2010 and 2011-2012 financial periods.

Annex I

Request for quotation

The International Tribunal for the Law of the Sea is an independent international organization which was established by the United Nations Convention on the Law of the Sea and commenced its activities in October 1996. The Tribunal has a biennial budget of approximately €18 million.

We should be grateful if you would send us a quotation for performing audits for the Tribunal's 2009-2010 and 2011-2012 financial periods. In addition, we would appreciate receiving a quotation for interim audits of the financial records for 2009 and 2011, to be performed in March/April 2010 and March/April 2012.

The quotation should include all related costs, for example, travel, daily subsistence allowance, disbursements, and so on, and should be submitted to us by 30 January 2008. Furthermore, we should be grateful if you would advise us of your availability to undertake the audits at the end of January/early February in 2011 and 2013 in order for the audited financial statements to be presented at the administrative sessions of the Tribunal due to take place in March 2011 and March 2013. For your information, the Tribunal's financial year end is 31 December. The scope of the audit is enclosed with the present letter.

Should you require any clarification, please contact me at (040) 3560 7244 or at ndungu@itlos.org.

We look forward to your prompt response.

Yours sincerely,

(*Signed*) Florence **Ndungu**
Head of Budget and Finance
Officer-in-Charge of Administration

Annex II

Scope of audit

(a) Whether the financial statements of the Tribunal present fairly in all material aspects the financial situation of the International Tribunal for the Law of the Sea;

(b) Whether the expenses incurred during these financial periods are in accordance with the appropriations approved by the Meeting of States Parties;

(c) Whether expenditures incurred have been appropriately authorized by the party designated for that purpose in the Rules of the Tribunal or the Financial Regulations;

(d) Whether staff and persons being paid by the Tribunal have been recruited or engaged in the manner provided for in the Rules of the Tribunal or the Financial Regulations;

(e) Whether goods and services have been procured in accordance with the procedure provided for in the Financial Regulations;

(f) Whether goods and services which have been procured are necessary or not excessive, having regard to circumstances and the functions of the Tribunal.

Addendum

Annex to the Financial Regulations[a]

Additional terms of reference governing the audit of the International Tribunal for the Law of the Sea

1. The Auditor shall perform such audit of the accounts of the Tribunal, including all trust funds and special accounts, as it deems necessary in order to satisfy itself:

(a) That the financial statements are in accord with the books and records of the Tribunal;

(b) That the financial transactions reflected in the statements have been in accordance with these Regulations and the Financial Rules, the budgetary provisions and other applicable directives;

(c) That the securities and moneys on deposit and on hand have been verified by certificates received direct from the Tribunal's depositaries or by actual count;

(d) That the internal controls, including internal oversight, are adequate in the light of the extent of reliance placed thereupon.

2. The Auditor shall be the sole judge as to the acceptance in whole or in part of certifications and representations by the Registrar and may proceed to such detailed examination and verification as it chooses of all financial records, including those relating to supplies and equipment.

3. The Auditor and its staff shall have free access at all convenient times to all books, records and other documentation which are, in the opinion of the Auditor, necessary for the performance of the audit. Information which is classified as privileged and which the Registrar (or a designated senior official) agrees is required by the Auditor for the purposes of the audit and information classified as confidential shall be made available on application. The Auditor and its staff shall respect the privileged and confidential nature of any information so classified which has been made available and shall not make use of it except in direct connection with the performance of the audit. The Auditor may draw the attention of the Tribunal and the Meeting of States Parties to any denial of information classified as privileged which, in its opinion, was required for the purpose of the audit.

4. The Auditor shall have no power to disallow items in the accounts but shall draw the attention of the Registrar, for appropriate action, to any transaction for which it entertains doubt as to legality or propriety. Audit objections, to these or any other transactions, arising during the examination of the accounts shall be communicated immediately to the Registrar.

5. The Auditor (or such of its officers as it may designate) shall express and sign an opinion on the financial statements which shall read as follows:

> "We have examined the following appended financial statements, numbered ... to ..., properly identified, and relevant schedules of the International Tribunal for the Law of the Sea for the financial period ended 31 December .... Our

[a] SPLOS/120, annex.

examination included a general review of the accounting procedures and such tests of the accounting records and other supporting evidence as we considered necessary in the circumstances."

The opinion shall also state, as appropriate, whether:

(a) The financial statements present fairly the financial position as at the end of the period and the results of their operations for the period then ended;

(b) The financial statements were prepared in accordance with the stated accounting principles;

(c) The accounting principles were applied on a basis consistent with that of the preceding financial report;

(d) Transactions were in accordance with these Regulations and legislative authority.

6. The report of the Auditor on the financial operations of the Tribunal for the financial period shall be submitted to the Meeting of States Parties through the Tribunal. It shall indicate:

(a) The type and scope of the Auditor's examination;

(b) Matters affecting the completeness and accuracy of the accounts, including, where appropriate:

(i) Information necessary to the correct interpretation of the accounts;

(ii) Any amounts which ought to have been received but which have not been brought to account;

(iii) Any amounts for which a legal or contingent obligation exists and which have not been recorded or reflected in the financial statements;

(iv) Expenditures not properly substantiated;

(v) Whether proper books of accounts have been kept; where in the presentation of statements there are deviations of a material nature from the generally accepted accounting principles applied on a consistent basis, these should be disclosed;

(c) Other matters which the Auditor considers should be brought to the notice of the Meeting of States Parties, such as:

(i) Cases of fraud or presumptive fraud;

(ii) Wasteful or improper expenditure of the Tribunal's money or other assets, notwithstanding that the accounting for the transaction may be correct;

(iii) Expenditure likely to commit the Tribunal to further outlay on a large scale;

(iv) Any defect in the general system or detailed regulations governing the control of receipts and disbursements or of supplies and equipment;

(v) Expenditure not in accordance with the intention of the Meeting of States Parties after making allowance for duly authorized transfers within the budget;

(vi) Expenditure in excess of appropriations as amended by duly authorized transfers within the budget;

(vii) Expenditure not in conformity with the authority which governs it;

(d) The accuracy or otherwise of the supplies and equipment records as determined by stock-taking and examination of the reports;

(e) If appropriate, transactions accounted for in a previous period concerning which further information has been obtained or transactions in a later period concerning which it seems desirable that the Meeting of States Parties should have early knowledge.

7. The Auditor may make such observations with respect to its findings resulting from the audit and such comments on the Registrar's financial report as it deems appropriate to the Meeting of States Parties, the Tribunal or the Registrar.

8. Whenever the scope of audit of the Auditor is restricted, or whenever it is unable to obtain sufficient evidence, it shall refer to the matter in its opinion and report, making clear in the report the reasons for its comments and the effect on the financial position and the financial transactions as recorded.

9. In no case shall the Auditor include criticism in its report without first affording the Registrar an adequate opportunity of explanation on the matter under observation.

10. The Auditor shall not be required to mention any matter referred to in the foregoing that, in its opinion, is insignificant in all respects.